IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

WA.No. 2285 of 2006()

AGAINST THE JUDGEMENT/ORDER IN WPC.20230/2003 Dated 25/10/2006

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APPELLANT: 4TH RESPONDENT

K.V.SUNNY,
L.D.CLERK, (NOW U.D.C.),
M.A.COLLEGE OF ENGINEERING,
KOTHAMANGALAM.

BY ADV. SRI.V.PHILIP MATHEWS

RESPONDENTS: PETITIONER

1. K.M.KURIAKOSE, S/O.MATHEW,
KAZHUTHAKODAN HOUSE, RAMALLOOR,
KOTHAMANGALAM P.O.,
FORMERLY WORKING AS U.D.CLERK,
M.A.COLLEGE OF ENGINEERING, KOTHAMANGALAM.

2. THE REGISTRAR,
M.G.UNIVERSITY,
KOTTAYAM.

3. THE JOINT DIRECTOR,
REGIONAL DIRECTORATE OF TECHNICAL EDUCATION,
KOTHAMANGALAM.

4. THE PRINCIPAL,
M.A.COLLEGE OF ENGINEERING,
KOTHAMANGALAM.

5. THE SECRETARY,
M.A.COLLEGE ASSOCIATION AND
CHAIRMAN,
GOVERNING BODY, M.A. COLLEGE OF ENGINEERING
KOTHAMANGALAM.

BY ADV. SRI. V.A. MUHAMMED, SC for M.G. UNIVERSITY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

W.A. NO. 2285 OF 2006

Dated this the 6th day of December 2006

JUDGMENT

Abdul Gafoor, J

A vacancy in the post of U.D. Clerk in a private affiliated college occurred on 01.03.1999. It is the admitted case of the appellant/4th respondent that neither he, nor the writ petitioner, was qualified as on the date. Far later, the appellant/4th respondent in the Writ Petition appeared for the examination in the obligatory departmental test on 13.07.2000, the result of which was declared on 16.10.2000. The writ petitioner completed the age of 50 years and became eligible for test exemption on 19.9.2000 earlier than the declaration of the result of the examination in which the appellant had appeared. Thus, he is the person first qualified, when none was qualified on the date of occurrence of vacancy. The person who became the first qualified shall be promoted is the normal rule.

The contention of the appellant is that he shall be deemed

to have qualified on the next day of the examination that he had written i.e., on 14.07.2000. This contention cannot be countenanced as it does not have a statutory backing. It has been held by the Supreme Court in **Charles K. Skaria v. C. Mathew** (AIR 1980 SC 1230) that a person shall be said to be qualified only when the result of the examination is made known. So, he became qualified only on 16.10.2000. One is entitled for test exemption on attaining the age of 50 years is admitted. The writ petitioner become so eligible on 19.09.2000 earlier than the declaration of the result of the test undertaken by the appellant. Therefore, we find no reason to interfere with the impugned judgment. The writ appeal is dismissed accordingly.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

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